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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,937	07/08/2004	James Andrew Brennan	BRE-PT001	1490

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VOLPE AND KOENIG, P.C.  
UNITED PLAZA, SUITE 1600  
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PHILADELPHIA, PA 19103

EXAMINER
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SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3637

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11/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,937	<b>Applicant(s)</b> BRENNAN, JAMES ANDREW	
	<b>Examiner</b> M. Safavi	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 13-25 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 13-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "side form support members releasably fixed relative to the supporting surface by a surface-to-member securing device fixed to the supporting surface and which [also] engages the side form member.", (**claim 1**), and "the securing device includes surface-to-member inter-member securing device that secures two side form support members together by securing onto two separate surfaces as an underlying surface", (**claim 5**), must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6, 13-18, and 22-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, it is not clear as to what is being defined by the language within lines 5-7. The specification does not appear clear and complete as to a side form support members releasably fixed relative to the supporting surface by a surface-to-member securing device fixed to the supporting surface and which also engages the side form member.

Claim 4, line 12, "the supporting support member" lacks antecedent basis within the claim. Therefore, it is not clear as to what "the supporting support member" defines. Lines 8-9 recite "is secured into a fixed position by an inter-member securing device". However, it is not clear if the securing device forms a positive part of the claimed invention. Are lines 10-11 reciting an intended assembly? Otherwise, the recitation at lines 10-14 of claim 4 is not clear. What, for example, is being defined by "the side form support member is secured into a fixed position by an inter-member securing device which engages an attachment surface of the supporting support member, which is a

separate and distinct surface to which it is also attached, to that of the top support surface of the supported support member". Is the side form support member secured into a fixed position to two distinct members at once? The specification does not appear to bear this out.

Claim 5, lines 2-4, it is not clear as to what is being defined by "wherein the securing device includes surface-to-member inter-member securing device that secures two side form support members together by securing onto two separate surfaces as an underlying surface". The specification does not appear to describe such a securing device arrangement.

Claim 13, line 8, to what does "adjacent side form support member" refer? Line 9, "the adjacent side form support members" appears to lack antecedent basis within the claim. Therefore, it is not clear as to what "the adjacent side form support members" defines. Claim 13 appears to introduce only one side form support member.

Claim 18, lines 1-2, "the support members" lacks antecedent basis within the claim. Therefore, it is not clear as to what "the support members" defines. Line 2, "the side-form members" lacks antecedent basis within the claim. Therefore, it is not clear as to what "the side-form members" defines. Claim 13 appears to introduce only one side form support member and one side form support member.

Claim 25, It is not clear as to what is being defined by "[t]he formwork structure of claim 24 that includes a plurality workmate surface-to-member securing devices and a plurality of member-to-member securing devices. The formwork structure of claim 24

does not appear to possess any workmate surface-to-member securing devices or any member-to-member securing devices.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-6, 13, 14, 17-19, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nolan '191.** Nolan '191 discloses, Figs. 3-6 for example, a formwork structure located on supporting surface, the structure having a side form perimeter including side form members A-D, the perimeter defining a curable non-solid material retaining area; the formwork including side form support members (e.g., D16/D17) that support the side form members, the side form support members releasably fixed relative to the supporting surface by a surface-to-member releasable securing device 18 fixed to the supporting surface and which engages the side form member A-D, characterized in that the side form member is adapted to permit another

side form member to be secured thereto by one or more releasable inter-member securing devices, which are separate to the surface-to-member securing device. Additional members (support or otherwise) can be utilized if desired, (**claim 2**).

**Claims 1-6, 13, 14, 17-19, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by International publication WO 01/96690, (WO '690).** WO '690 discloses, Figs. 1, 2, 5, and 12 for example, a formwork structure located on supporting surface, the structure having a side form perimeter including side form members 18, the perimeter defining a curable non-solid material retaining area; the formwork including side form support members 18 that support the side form members, the side form support members releasably fixed relative to the supporting surface by a surface-to-member releasable securing device 12 fixed to the supporting surface and which engages the side form member, characterized in that the side form member is adapted to permit another side form member to be secured thereto by one or more releasable inter-member securing devices, which are separate to the surface-to-member securing device. As to **claim 4**, the side form support member 18 is secured into a fixed position by using a securing device 12 which engages to an attachment surface of the member which is a separate and distinct surface to the top support surface 18 of the member.

**Claims 1-6 and 13-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas '935.** Thomas '935 discloses, Figs. 5-10 for example, a side form member 40 used in defining a perimeter for retaining curable non-solid material,

the member having a top support surface capable of supporting another member, a bottom resting surface for contacting and being supported by an underlying support surface, the member having two opposed sides that extend from the top and bottom surfaces, a support side capable of being supported by one or more side-form support members, and a retaining side, wherein the retaining side is capable of having side-moulds affixed thereto. The retaining side, (one side), includes two channels therein, an upper channel located near the top surface and a lower channel located near the bottom surface by which a side-mould may be affixed thereto, (**claims 15, 16, 20, and 21**). The support side, (opposite side), has two channels therein, an upper channel located near the top surface and a lower channel located near the bottom surface, the channels facilitating the attachment of one or more side form support members to the side-form members.

### ***Response to Arguments***

Applicant's arguments filed August 20, 2007 have been fully considered but they are not persuasive. The "releasable securing device" of Nolan '191 is at 18. Meanwhile, claims 1, 13, and 19 do not positively set forth "side form support members" supported on top of "side form support members". Claims 1, 13, and 19 merely define a side form member or side form members.

As for WO '690, claims 1, 13, and 19 do not positively set forth "side form support members" supported on top of "side form support members". Claims 1, 13, and 19 merely define a side form member or side form members. Otherwise, as with the Nolan



'191 side form members A-D, the side form members 18 of WO '690 are securable one with another.

With regard to Thomas '935, claims 1, 13, and 19 do not positively set forth "side form support members" supported on top of "side form support members". Claims 1, 13, and 19 merely define a side form member or side form members. Further, the upper surface, (upper surface where lead line of 40 touches), of the form members 40 of Thomas '935 can support another element including another form member 40.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**MICHAEL SAFAVI**  
**PRIMARY EXAMINER**  
**ART UNIT 354**

M. Safavi  
October 24, 2007